BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: Peter Barmon Brett, M.D. Physician's and Surgeon's Certificate No. G 59321 Respondent.	Case No. 800-2019-055396

DECISION

The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on June 15, 2021.

IT IS SO ORDERED June 8, 2021.

MEDICAL BOARD OF CALIFORNIA

William Prasifka
Executive Director

MATTHEW RODRIQUEZ
Acting Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
LYNNE K. DOMBROWSKI
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Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **PETER BARMON BRETT, M.D.** **P.O. Box 10001, PMB 494** **Saipan MP 96950** **Physician's and Surgeon's Certificate** **No. G 59321** Respondent.	Case No. 800-2019-055396 OAH No. 2020120883 **STIPULATED SURRENDER OF LICENSE AND ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brings this action solely in his official capacity and is represented in this matter by Matthew Rodriquez, Attorney General of the State of California, by Lynne K. Dombrowski, Deputy Attorney General.

2. Peter Barmon Brett, M.D. (Respondent) is represented in this proceeding by attorney Kevin P. Kelly, whose address is: Mr. Kevin P. Kelly, The Goldman Law Firm, Merchant Bank Building, 55 Main Street, Tiburon, CA 94920, Email: KKELLY@GOLDMANLAWFIRM.NET.

3. On or about December 22, 1986, the Board issued Physician's and Surgeon's Certificate No. G 59321 to Peter Barmon Brett, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2019-055396 and will expire on May 31, 2022, unless renewed.

JURISDICTION

4. Accusation No. 800-2019-055396 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 26, 2020. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2019-055396 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2019-055396. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 800-2019-055396, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a *prima facie* basis for some or all of the charges in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process, thereby resulting in the complete resolution of the pending Accusation.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

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ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 59321, issued to Respondent PETER BARMON BRETT, M.D., is surrendered and accepted by the Board.

1. Respondent shall lose all rights and privileges as a physician and surgeon in California as of the effective date of the Board's Decision and Order.

2. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

3. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2019-055396 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

4. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 800-2019-055396 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney Mr. Kevin P. Kelly. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 4/23/21

PETER BARMON BRETT, M.D.
Respondent

I have read and fully discussed with Respondent PETER BARMON BRETT, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 4/23/2021

KEVIN P. KELLY
The Goldman Law Firm
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: 04/23/2021

Respectfully submitted,

MATTHEW RODRIQUEZ
Acting Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General

Lynne K. Dombrowski

LYNNE K. DOMBROWSKI
Deputy Attorney General
Attorneys for Complainant

SF2020200435

Exhibit A

Accusation No. 800-2019-055396

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Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **Peter Barmon Brett, M.D.** P.O. Box 10001, PMB 494 Saipan MP 96950 Physician's and Surgeon's Certificate No. G 59321, Respondent.	Case No. 800-2019-055396 **ACCUSATION**

PARTIES

1. Christine J. Lally (Complainant) brings this Accusation solely in her official capacity as the Interim Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about December 22, 1986, the Medical Board issued Physician's and Surgeon's Certificate Number G 59321 to Peter Barmon Brett, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2022, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states:

> The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:
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> (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.
>
> (b) Gross negligence.
>
> (c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.
>
> (1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.
>
> (2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.
>
> (d) Incompetence.
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> (e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.
>
> (f) Any action or conduct that would have warranted the denial of a certificate.
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> (g) The repeated failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

6. Section 2220 of the Code states:

Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. The board shall enforce and administer this article as to physician and surgeon certificate holders, including those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders, and the board shall have all the powers granted in this chapter for these purposes including, but not limited to:

(a) Investigating complaints from the public, from other licensees, from health care facilities, or from the board that a physician and surgeon may be guilty of unprofessional conduct. The board shall investigate the circumstances underlying a report received pursuant to Section 805 or 805.01 within 30 days to determine if an interim suspension order or temporary restraining order should be issued. The board shall otherwise provide timely disposition of the reports received pursuant to Section 805 and Section 805.01.

(b) Investigating the circumstances of practice of any physician and surgeon where there have been any judgments, settlements, or arbitration awards requiring the physician and surgeon or his or her professional liability insurer to pay an amount in damages in excess of a cumulative total of thirty thousand dollars ($30,000) with respect to any claim that injury or damage was proximately caused by the physician's and surgeon's error, negligence, or omission.

(c) Investigating the nature and causes of injuries from cases which shall be reported of a high number of judgments, settlements, or arbitration awards against a physician and surgeon.

7. Section 2228 of the Code states:

The authority of the board or the California Board of Podiatric Medicine to discipline a licensee by placing him or her on probation includes, but is not limited to, the following:

(a) Requiring the licensee to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the board or the administrative law judge.

(b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians and surgeons appointed by the board. If an examination is ordered, the board shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons of the licensee's choice.

(c) Restricting or limiting the extent, scope, or type of practice of the licensee, including requiring notice to applicable patients that the licensee is unable to perform the indicated treatment, where appropriate.

(d) Providing the option of alternative community service in cases other than violations relating to quality of care.

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8. Section 2242 of the Code states:

(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct. An appropriate prior examination does not require a synchronous interaction between the patient and the licensee and can be achieved through the use of telehealth, including, but not limited to, a self-screening tool or a questionnaire, provided that the licensee complies with the appropriate standard of care.

(b) No licensee shall be found to have committed unprofessional conduct within the meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of the following applies:

(1) The licensee was a designated physician and surgeon or podiatrist serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return of the patient's practitioner, but in any case no longer than 72 hours.

(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed vocational nurse in an inpatient facility, and if both of the following conditions exist:

(A) The practitioner had consulted with the registered nurse or licensed vocational nurse who had reviewed the patient's records.

(B) The practitioner was designated as the practitioner to serve in the absence of the patient's physician and surgeon or podiatrist, as the case may be.

(3) The licensee was a designated practitioner serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized the patient's records and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refill.

(4) The licensee was acting in accordance with Section 120582 of the Health and Safety Code.

9. Section 2266 of the Code states: The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

10. Section 726 of the Code states:

(a) The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this or under any initiative act referred to in this division.

(b) This section shall not apply to consensual sexual contact between a licensee and his or her spouse or person in an equivalent domestic relationship when that

licensee provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship.

11. Section 729 of the Code states:

(a) Any physician and surgeon, psychotherapist, alcohol and drug abuse counselor or any person holding himself or herself out to be a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor, who engages in an act of sexual intercourse, sodomy, oral copulation, or sexual contact with a patient or client, or with a former patient or client when the relationship was terminated primarily for the purpose of engaging in those acts, unless the physician and surgeon, psychotherapist, or alcohol and drug abuse counselor has referred the patient or client to an independent and objective physician and surgeon, psychotherapist, or alcohol and drug abuse counselor recommended by a third-party physician and surgeon, psychotherapist, or alcohol and drug abuse counselor for treatment, is guilty of sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor.

(b) Sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor is a public offense:

(1) An act in violation of subdivision (a) shall be punishable by imprisonment in a county jail for a period of not more than six months, or a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(2) Multiple acts in violation of subdivision (a) with a single victim, when the offender has no prior conviction for sexual exploitation, shall be punishable by imprisonment in a county jail for a period of not more than six months, or a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(3) An act or acts in violation of subdivision (a) with two or more victims shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of 16 months, two years, or three years, and a fine not exceeding ten thousand dollars ($10,000); or the act or acts shall be punishable by imprisonment in a county jail for a period of not more than one year, or a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(4) Two or more acts in violation of subdivision (a) with a single victim, when the offender has at least one prior conviction for sexual exploitation, shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of 16 months, two years, or three years, and a fine not exceeding ten thousand dollars ($10,000); or the act or acts shall be punishable by imprisonment in a county jail for a period of not more than one year, or a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(5) An act or acts in violation of subdivision (a) with two or more victims, and the offender has at least one prior conviction for sexual exploitation, shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of 16 months, two years, or three years, and a fine not exceeding ten thousand dollars ($10,000).

For purposes of subdivision (a), in no instance shall consent of the patient or client be a defense. However, physicians and surgeons shall not be guilty of sexual exploitation for touching any intimate part of a patient or client unless the touching is outside the scope of medical examination and treatment, or the touching is done for sexual gratification.

(c) For purposes of this section:

(1) "Psychotherapist" has the same meaning as defined in Section 728.

(2) "Alcohol and drug abuse counselor" means an individual who holds himself or herself out to be an alcohol or drug abuse professional or paraprofessional.

(3) "Sexual contact" means sexual intercourse or the touching of an intimate part of a patient for the purpose of sexual arousal, gratification, or abuse.

(4) "Intimate part" and "touching" have the same meanings as defined in Section 243.4 of the Penal Code.

(d) In the investigation and prosecution of a violation of this section, no person shall seek to obtain disclosure of any confidential files of other patients, clients, or former patients or clients of the physician and surgeon, psychotherapist, or alcohol and drug abuse counselor.

(e) This section does not apply to sexual contact between a physician and surgeon and his or her spouse or person in an equivalent domestic relationship when that physician and surgeon provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship.

(f) If a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor in a professional partnership or similar group has sexual contact with a patient in violation of this section, another physician and surgeon, psychotherapist, or alcohol and drug abuse counselor in the partnership or group shall not be subject to action under this section solely because of the occurrence of that sexual contact.

12. Section 2220.7 of the Code states:

(a) A physician and surgeon shall not include or permit to be included any of the following provisions in an agreement to settle a civil dispute arising from his or her practice, whether the agreement is made before or after filing the action:

(1) A provision that prohibits another party to the dispute from contacting or cooperating with the board.

(2) A provision that prohibits another party to the dispute from filing a complaint with the board.

(3) A provision that requires another party to the dispute to withdraw a complaint he or she has filed with the board.

(b) A provision described in subdivision (a) is void as against public policy.

(c) A physician and surgeon who violates this section is subject to disciplinary action by the board.

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PERTINENT DRUGS

13. Amoxicillin is a penicillin antibiotic that is used to treat many different types of infections caused by bacteria. It can make birth control pills less effective if taken at the same time. It is a dangerous drug as defined in Business and Professions Code section 4022.

14. Azithromycin, known by the trade name Zithromax Z-Pak, is an antibiotic used to treat many different types of infections caused by bacteria. It is a dangerous drug as defined in Business and Professions Code section 4022.

15. Cephalexin, known by the trade name Keflex, is a cephalosporin antibiotic that is used to treat infections caused by bacteria, including respiratory infections, ear infections, skin infections, urinary tract infections, and bone infections. It is a dangerous drug as defined in Business and Professions Code section 4022.

16. Ciprofloxacin is a fluoroquinolone antibiotic used to treat different types of bacterial infections. It is a dangerous drug as defined in Business and Professions Code section 4022.

17. Clindamycin, known by the trade name Cleocin, is an antibiotic used to treat serious infections caused by bacteria. It may be administered either by injection or orally by capsule. It is a dangerous drug as defined in Business and Professions Code section 4022.

18. Depakote is a generic term for divalproex sodium which is a compound comprised of sodium valproate and valproic acid. It is an anticonvulsant used to treat manic episodes associated with bipolar disorder, epilepsy, and migraine headaches. It is a dangerous drug as defined in Business and Professions Code section 4022.

19. Diazepam, known by the trade name Valium, is a psychotropic drug for the management of anxiety disorders or for the short-term relief of the symptoms of anxiety. It is a dangerous drug as defined in Business and Professions Code section 4022 and a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code. Diazepam can produce psychological and physical dependence and it should be prescribed with caution particularly to addiction-prone individuals (such as drug addicts and alcoholics) because of the pre-disposition of such patients to habituation and dependence.

20. Ethinyl estradiol and norgestimate, known by the trade names Ortho Tri-Cyclen, TriNessa, Tri-Previfem, and Tri-Sprintec, is a combination birth control pill containing female hormones that is used to prevent ovulation and pregnancy. It is a dangerous drug as defined in Business and Professions Code section 4022.

21. Lamotrigine, known by the trade name Lamictal) is an anticonvulsant and anti-epileptic medication that may also be used to delay mood episodes in adults with bipolar disorder (manic depression). It is a dangerous drug as defined in Business and Professions Code section 4022.

22. Levothyroxine, known by the trade name Synthroid, is a thyroid medication that replaces a hormone normally produced by the thyroid gland to regulate the body's energy and metabolism. It is used to treat hypothyroidism (low thyroid hormone) and to treat or to prevent goiter (an enlarged thyroid gland). It is a dangerous drug as defined in Business and Professions Code section 4022.

23. Prednisone is the generic name for a corticosteroid used as an anti-inflammatory or an immunosuppressant medication. It is a dangerous drug as defined in Business and Professions Code section 4022.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Gross Negligence, Sexual Relations and/or Sexual Misconduct and/or Sexual Exploitation of Patient A[1])

24. Respondent Peter Barmon Brett, M.D. is subject to disciplinary action for unprofessional conduct under section 2234 subdivision (b) [gross negligence] and/or section 726 [sexual relations/sexual misconduct] and/or section 729 [sexual exploitation] because Respondent had a sexual relationship with a patient that lasted for about seven years during which he treated and prescribed medications to her for various conditions, none of which were cancer-related. The facts and circumstances are as follows:

[1] The patient will be identified by a letter to protect the patient's rights to privacy. The patient's identity will be revealed to Respondent through discovery.

25. In or about September 2008, Respondent first met Pt. A, a female born in 1984, in a creative writing class at a local junior college. At the time, Respondent was a physician specializing in oncology with the Redwood Regional Medical Group, with offices in both Sebastopol and in Healdsburg.

26. At all times alleged herein, Respondent was married and maintained a residence with his wife.

27. Sometime in or before September 2009, Respondent became sexually involved with Pt. A. This sexual relationship continued through about 2016, except for a period of time in 2012 and 2013 when they stopped seeing each other. In or about January 2014, they resumed their sexual relationship and continued it until about January 2016.

28. On or about September 30, 2009, Respondent prescribed #30 Depakote 250 mg. (valproic acid) plus three refills to Pt. A. Respondent did not examine the patient, document an appropriate history and physical examination, and did not document a medical indication for his prescribing to Pt. A. Respondent was aware that Pt. A had a history of substance abuse, including alcohol and methamphetamines, and that she had a history of violence, having served time in juvenile hall when she was younger. Respondent was also aware that Pt. A was a heavy smoker, consumed a lot of alcohol, and was taking methamphetamines that she got "off the street."

29. On or about November 6, 2009, Respondent prescribed six months of birth control pills (Tri-Sprintec) to Pt. A.

30. On or about January 4, 2010, Respondent prescribed #30 Depakote 250 mg. (valproic acid) plus five refills to Pt. A.

31. On or about January 21, 2010, Respondent prescribed #30 lamotrigine plus three refills to Pt. A.

32. Over the course of their sexual relationship through at least 2015, Respondent issued multiple prescriptions to Pt. A for various medical conditions, which included psychiatric medications, such as Depakote, lamotrigine, and Valium (diazepam), birth control pills, hypothyroid medication (levothyroxine), various antibiotics (oral and topical), eye medications, and Prednisone.

33. During the course of his treating of and prescribing to Pt. A, Respondent kept no records. Respondent has no medical records or other documentation of appropriate examinations with documented medical history and findings to support and document his treatments of Pt. A and no record that he monitored the effectiveness of those treatments. Respondent also has no medical records or other documentation that he discussed the risks and benefits of the drug treatments he prescribed with Pt. A to establish that he obtained informed consent from the patient.

34. From April 2013 through December 2014, Respondent issued the following prescription medications to Pt. A: Valium, Prednisone, various antibiotics (Ciprofloxocin, Cleocin, azithromycin, Keflex), and eye medications. During that same time period, Pt. A was being treated by other health professionals who also issued her prescriptions.

35. From January 2015 through January 2016, Respondent issued the following prescription medications to Pt. A: Valium (two months supply), levothyroxine (six months supply), Vivotif (typhoid oral vaccine), various antibiotics (Ciprofloxacin, Keflex, triamcinolone cream), and eye medications. During that same time period, Pt. A was being treated by other health professionals who also issued her prescriptions.

36. More specifically, based on the allegations herein of Paragraphs 24 through 35, Respondent is subject to disciplinary action for unprofessional conduct under section 2234 subdivision (b) [gross negligence] and/or section 726 [sexual misconduct] and/or section 729 [sexual exploitation] as follows:

a. Respondent failed to observe and maintain professional boundaries with Pt. A.by engaging in sexual relations while in a patient-physician relationship. Respondent's dual relationship with Pt. A violated professional and ethical standards and constitutes unprofessional conduct and an extreme departure from the standard of care (gross negligence), sexual misconduct, and sexual exploitation.

b. While involved sexually with Pt. A for many years, Respondent continued to treat and prescribe medications to Pt. A for various medical conditions, including psychiatric conditions.

c. Respondent issued prescriptions to Pt. A without documenting an appropriate history and physical medical examination and a medical indication for his treatments, without obtaining relevant diagnostic studies, without formulating and documenting a treatment plan with periodic monitoring, and without documenting that he had obtained informed consent.

d. Respondent prescribed medications to Pt. A without communicating and coordinating care with her other healthcare providers in order to avoid the risks, such as duplicating medications, overprescribing, or inadvertently causing drug interactions.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Gross Negligence; Prescribing without Appropriate Medical Examination and Medical Indication)

37. The allegations of Paragraphs 24 through 36 above are incorporated herein by reference as if fully set forth. Respondent's license is subject to disciplinary action for unprofessional conduct under section 2234, subdivision (b) [gross negligence] and section 2242 in that he prescribed controlled substances and dangerous drugs to Pt. A without performing an appropriate prior examination and without a medical indication.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Failure to Maintain Adequate and Accurate Records)

38. The allegations of Paragraphs 24 through 36 above are incorporated herein by reference as if fully set forth. Respondent's license is subject to disciplinary action for unprofessional conduct under section 2266 in that he failed to maintain adequate and accurate records relating to his medical care and treatment of Pt. A.

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FOURTH CAUSE FOR DISCIPLINE

(Prohibited Provisions in Settlement Agreement: Failure to Report Settlement)

39. Respondent Peter Barmon Brett, M.D. is subject to disciplinary action for unprofessional conduct under section 2234 through violations of section 2220.7 because he included prohibited provisions in a civil settlement agreement with Patient A. The facts and circumstances are as follows:

40. The allegations of Paragraphs 24 through 36 above are incorporated herein by reference as if fully set forth.

41. On or about August 30, 2018, Pt. A filed a civil complaint against Respondent in the Sonoma County Superior Court that alleged multiple causes of action, including professional negligence by a physician for Respondent's care and treatment of Pt. A, and sexual battery. In said civil complaint, the plaintiff (Pt. A) alleged that she and Respondent had a physician-patient relationship beginning in or about late 2008, which continued until sometime in November or December of 2017. It was also alleged that Pt. A's sexual relationship with Respondent began in approximately September 2009 and continued until the fall of 2017.

42. On or about February 27, 2019, Respondent and the plaintiff (Pt. A) entered into a Settlement Agreement and Mutual Release regarding the civil complaint. The Settlement Agreement included an initial payment of more than $30,000 by Respondent to Pt. A. In said settlement agreement, there was a confidentiality clause which stated that the terms and conditions of the agreement were to be kept confidential by the parties "except as it may be required by state or federal law, court subpoena, or as required or permitted in a court proceeding." The confidentiality clause further stated that the parties agreed that "going forward, neither party will affirmatively notify any third person or entity that the parties were involved in litigation with one another, unless such disclosure is necessary in the usual course of business."

43. More specifically, Respondent is subject to disciplinary action for unprofessional conduct under section 2234 because the civil settlement agreement with Pt. A. violated section 2220.7 subdivisions (a)(1) and (a)(2) by prohibiting Pt. A from contacting or cooperating with the Board and from filing a complaint with the Board.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 59321, issued to Peter Barmon Brett, M.D.;

2. Revoking, suspending or denying approval of Peter Barmon Brett, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Peter Barmon Brett, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: MAY 26 2020

CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

SF2020200435